



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

2008 APR 24 PM 6:51

RANDALL J. HUEBNER, DAVID G. JENSEN,
and HERBERT RESPESS

Date: April 17, 2008

Serial No. : 10/625,503

Docket No. ACM 349

Filed : July 22, 2003

Group Art Unit 3733

For : BONE FUSION SYSTEM

Examiner Michael J. Araj

Commissioner for Patents
REFUND SECTION
P.O. Box 1450
Alexandria, Virginia 22313-1450

Sir:

REQUEST FOR REFUND

Applicants respectfully request a refund to Deposit Account No. 11-1540 in the amount of \$250. On January 29, 2008, Applicants filed a Response After Final Office Action in the above-referenced matter. Applicants included an electronic payment via Deposit Account 11-1540 in the amount of \$1,650 to cover the required excess claims fees. The excess claims fee was based on 33 excess claims (78 total claims) at the large entity rate of \$50 each. Nevertheless, despite receipt of these funds, on February 4, 2008 the Patent Office also charged Deposit Account 11-1540 the amount of \$250 for 5 excess claims fees at the large entity rate. Thus, Applicants have paid for 83 (large entity) claims although only 78 claims exist in the application.

According to the Patent Application Fee Determination Record on file in this matter, Legal Instrument Examiner Deborah Pollard calculated on January 29, 2008 that the

highest number of claims previously paid for on this application was 40. Applicants respectfully assert that they already paid for a total of 45 claims more than a year earlier. On January 5, 2004, Applicants filed a Response to Notice to File Missing Parts of Nonprovisional Application, and submitted therewith Check No. 54218 in the amount of \$1,346 as payment for the application filing fees and surcharge, which sum included payment for 20 extra claims at the [then] rate of \$18 each, for a total of 40 claims in the application. On September 14, 2006, Applicants filed a Response to Office Action, and submitted therewith Check No. 67559 in the amount of \$250 as payment for 5 new claims introduced in that amendment, bringing the total number of claims in the application, and paid for, to 45. Indeed, the Patent Office's own records show that the highest number of claims previously paid for is 45, as shown on another Patent Application Fee Determination Record dated September 18, 2006, entered after the filing of the Response to Office Action on September 14, 2006.

Applicants hereby submit copies of the following documents that show Deposit Account 11-1540 was charged \$250 in error:

- Exhibit A. Copy of the Electronic Patent Application Fee Transmittal noting inclusion of payment in the amount of \$1,650 for 33 excess claims.
- Exhibit B. Copy of the Electronic Acknowledgement Receipt noting successful receipt of the payment in the amount of \$1,650.
- Exhibit C. Copy of the Monthly Deposit Account Statement showing the \$250 PTO charge attributed to excess claims fees based upon the large entity rate of \$50 each, which sum amounts to overpayment of 5 excess claims at the large entity rate.
- Exhibit D. Copy of the Patent Application Fee Determination Record dated January 29, 2008, obtained through Private PAIR.
- Exhibit E. Copy of the Patent Application Fee Determination Record dated September 18, 2006, obtained through Private PAIR.

Exhibit F. Copy of the Fee Transmittal dated January 5, 2004 (which accompanied Applicants' Response to Notice to File Missing Parts of Nonprovisional Application) itemizing the extra claims fees paid for at that time.

Exhibit G. Copy of the stub from Check No. 54218 for \$1,346.

Exhibit H. Copy of the Fee Transmittal dated September 14, 2006 (which accompanied Applicants' Response to Office Action) itemizing the 5 extra claims fees paid for at that time.

Exhibit I. Copy of the stub from Check No. 67559 for \$250.

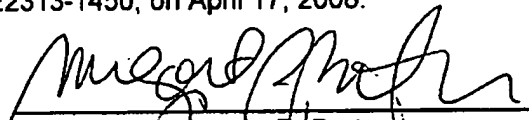
Accordingly, Applicant respectfully requests a refund in the amount of \$250 to Deposit Account No. 11-1540 for the February 4, 2008 charge to the deposit account. A duplicate of this document, excluding exhibits, is included for your convenience in processing the refund request.

Respectfully submitted,

KOLISCH HARTWELL, P.C.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, REFUND SECTION, PO Box 1450, Alexandria, Virginia 22313-1450, on April 17, 2008.


Margaret R. Burton

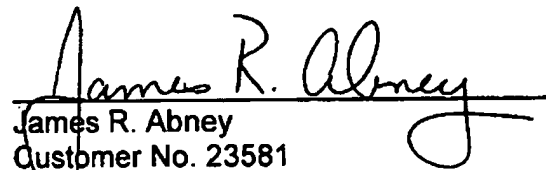

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Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679

Exhibit A

Electronic Patent Application Fee Transmittal

Application Number:	10625503			
Filing Date:	22-Jul-2003			
Title of Invention:	BONE FUSION SYSTEM			
First Named Inventor/Applicant Name:	Randall J. Huebner			
Filler:	James R. Abney/Margaret Burton			
Attorney Docket Number:	ACM 349			
Filed as Large Entity				
Utility Filing Fees				
Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Basic Filing:				
Pages:				
Claims:				
Claims in excess of 20	1202	33	50	1650
Miscellaneous-Filing:				
Petition:				
Patent-Appeals-and-Interference:				
Post-Allowance-and-Post-Issuance:				
Extension-of-Time:				

Description	Fee Code	Quantity	Amount	Sub-Total in USD(\$)
Miscellaneous:				
Total in USD (\$)				1650

Exhibit B

Electronic Acknowledgement Receipt

EFS ID:	2785656
Application Number:	10625503
International Application Number:	
Confirmation Number:	8089
Title of Invention:	BONE FUSION SYSTEM
First Named Inventor/Applicant Name:	Randall J. Huebner
Customer Number:	23581
Filer:	James R. Abney/Margaret Burton
Filer Authorized By:	James R. Abney
Attorney Docket Number:	ACM 349
Receipt Date:	29-JAN-2008
Filing Date:	22-JUL-2003
Time Stamp:	20:47:02
Application Type:	Utility under 35 USC 111(a)

Payment information:

Submitted with Payment	yes
Payment Type	Deposit Account
Payment was successfully received in RAM	\$ 1650
RAM confirmation Number	3954
Deposit Account	111540
Authorized User	
The Director of the USPTO is hereby authorized to charge indicated fees and credit any overpayment as follows: Charge any Additional Fees required under 37 C.F.R. Section 1.21 (Miscellaneous fees and charges)	

File Listing:

Document Number	Document Description	File Name	File Size(Bytes) /Message Digest	Multi Part /.zip	Pages (if appl.)
1		01-29-08_Response_After_Final_Office_Action_AS-FILE D_ACM349.pdf	1140075 3211518d2a2894c12a3a8a40068db441d6422626	yes	22

Multipart Description/PDF files in .zip description

Document Description	Start	End
Amendment After Final	1	1
Claims	2	16
Applicant Arguments/Remarks Made in an Amendment	17	22

Warnings:**Information:**

2	Fee Worksheet (PTO-06)	fee-info.pdf	8128 a94a7583cd9d568c5a848781fb0d01008a0f5c3bd	no	2
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Warnings:**Information:**

Total Files Size (in bytes):	1148203
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This Acknowledgement Receipt evidences receipt on the noted date by the USPTO of the indicated documents, characterized by the applicant, and including page counts, where applicable. It serves as evidence of receipt similar to a Post Card, as described in MPEP 503.

New Applications Under 35 U.S.C. 111

If a new application is being filed and the application includes the necessary components for a filing date (see 37 CFR 1.53(b)-(d) and MPEP 506), a Filing Receipt (37 CFR 1.54) will be issued in due course and the date shown on this Acknowledgement Receipt will establish the filing date of the application.

National Stage of an International Application under 35 U.S.C. 371

If a timely submission to enter the national stage of an international application is compliant with the conditions of 35 U.S.C. 371 and other applicable requirements a Form PCT/DO/EO/903 indicating acceptance of the application as a national stage submission under 35 U.S.C. 371 will be issued in addition to the Filing Receipt, in due course.

New International Application Filed with the USPTO as a Receiving Office

If a new international application is being filed and the international application includes the necessary components for an international filing date (see PCT Article 11 and MPEP 1810), a Notification of the International Application Number and of the International Filing Date (Form PCT/RO/105) will be issued in due course, subject to prescriptions concerning national security, and the date shown on this Acknowledgement Receipt will establish the international filing date of the application.

Exhibit C



**United States
Patent and
Trademark Office**

Return To:

USPTO
Home
PageFinance
Online
Shopping
Page**Deposit Account Statement**

Requested Statement Month: February 2008
Deposit Account Number: 111540
Name: KOLISCH HARTWELL, P.C.
Attention: ACCOUNTING DEPARTMENT
Street Address 1: 520 S.W. YAMHILL STREET
Street Address 2: SUITE 200
City: PORTLAND
State: OR
Zip: 97204
Country: UNITED STATES

DATE	SEQ	POSTING REF TXT	ATTORNEY DOCKET NBR	FEE CODE	AMT	BAL
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START
BALANCE
\$33,845.00

SUM OF
CHARGES
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SUM OF
REPLENISH
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END
BALANCE
\$33,989.00

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Exhibit D

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

PATENT APPLICATION FEE DETERMINATION RECORD Substitute for Form PTO-875				Application or Docket Number 10/625,503		Filing Date 07/22/2003		<input type="checkbox"/> To be Mailed	
APPLICATION AS FILED – PART I								OTHER THAN	
(Column 1)		(Column 2)		SMALL ENTITY <input type="checkbox"/>		OR		SMALL ENTITY	
FOR	NUMBER FILED	NUMBER EXTRA	RATE (\$)	FEE (\$)	OR		RATE (\$)	FEE (\$)	
<input type="checkbox"/> BASIC FEE (37 CFR 1.16(a), (b), or (c))	N/A	N/A	N/A		OR		N/A		
<input type="checkbox"/> SEARCH FEE (37 CFR 1.16(f), (i), or (m))	N/A	N/A	N/A		OR		N/A		
<input type="checkbox"/> EXAMINATION FEE (37 CFR 1.16(o), (p), or (q))	N/A	N/A	N/A		OR		N/A		
TOTAL CLAIMS (37 CFR 1.16(i))	minus 20 =	•	X \$ =		OR		X \$ =		
INDEPENDENT CLAIMS (37 CFR 1.16(h))	minus 3 =	•	X \$ =		OR		X \$ =		
<input type="checkbox"/> APPLICATION SIZE FEE (37 CFR 1.16(s))	If the specification and drawings exceed 100 sheets of paper, the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).				OR				
<input type="checkbox"/> MULTIPLE DEPENDENT CLAIM PRESENT (37 CFR 1.16(j))					OR				
			TOTAL		OR		TOTAL		
* If the difference in column 1 is less than zero, enter "0" in column 2.									
APPLICATION AS AMENDED – PART II								OTHER THAN	
(Column 1)		(Column 2)		(Column 3)		SMALL ENTITY		OR	
DATE	CLAIMS REMAINING AFTER AMENDMENT	MINUS	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR		RATE (\$)
01/29/2008	• 78	Minus	• 40	= 38	X \$ =		OR		X \$60=
Total (37 CFR 1.16(i))	• 78	Minus	• 40	= 38	X \$ =		OR		1900
Independent (37 CFR 1.16(h))	• 4	Minus	• 6	= 0	X \$ =		OR		X \$210=
Application Size Fee (37 CFR 1.16(s))							OR		
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE		OR		TOTAL ADD'L FEE
							OR		1900
(Column 1)		(Column 2)		(Column 3)		SMALL ENTITY		OR	
DATE	CLAIMS REMAINING AFTER AMENDMENT	MINUS	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA	RATE (\$)	ADDITIONAL FEE (\$)	OR		RATE (\$)
Total (37 CFR 1.16(i))	•	Minus	•	=	X \$ =		OR		X \$ =
Independent (37 CFR 1.16(h))	•	Minus	•	=	X \$ =		OR		X \$ =
Application Size Fee (37 CFR 1.16(s))							OR		
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM (37 CFR 1.16(j))							OR		
					TOTAL ADD'L FEE		OR		TOTAL ADD'L FEE
							OR		

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.
 ** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20".
 *** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3".
 The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Legal Instrument Examiner:
/DEBORAH POLLARD/

This collection of information is required by 37 CFR 1.16. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Exhibit E

PATENT APPLICATION FEE DETERMINATION RECORD
Effective December 8, 2004

10/625503

CLAIMS AS FILED - PART I

continuous

	(Column 1)	(Column 2)
TOTAL CLAIMS		
FOR	NUMBER FILED	NUMBER EXTRA
TOTAL CHARGEABLE CLAIMS	minus 20 =	
INDEPENDENT CLAIMS	minus 3 =	
MULTIPLE DEPENDENT CLAIM PRESENT <input type="checkbox"/>		

* If the difference in column 1 is less than zero, enter "0" in column 2

CLAIMS AS AMENDED - PART II

4-11-06

	(Column 1)	(Column 2)	(Column 3)
AMENDMENT A	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total	33	minus 40	0
Independent	2	minus 4	0
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <input type="checkbox"/>			

SMALL ENTITY TYPE ☐ OR

OTHER THAN SMALL ENTITY

RATE	FEE	OR	RATE	FEE
BASIC FEE	150.00	OR	BASIC FEE	300.00
X5 25=		OR	X350=	
X100=		OR	X200=	
+180=		OR	+360=	
TOTAL		OR	TOTAL	1216

SMALL ENTITY OR

OTHER THAN SMALL ENTITY

RATE	ADDITIONAL FEE	OR	RATE	ADDITIONAL FEE
X5 25=		OR	X350=	
X100=		OR	X200=	
+180=		OR	+360=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

9-18-06

	(Column 1)	(Column 2)	(Column 3)
AMENDMENT B	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total	45	minus 40	5
Independent	2	minus 4	-
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <input type="checkbox"/>			

RATE	ADDITIONAL FEE	OR	RATE	ADDITIONAL FEE
X5 25=		OR	X350=	250
X100=		OR	X200=	
+180=		OR	+360=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	250

	(Column 1)	(Column 2)	(Column 3)
AMENDMENT C	CLAIMS REMAINING AFTER AMENDMENT	HIGHEST NUMBER PREVIOUSLY PAID FOR	PRESENT EXTRA
Total		minus	
Independent		minus	
FIRST PRESENTATION OF MULTIPLE DEPENDENT CLAIM <input type="checkbox"/>			

RATE	ADDITIONAL FEE	OR	RATE	ADDITIONAL FEE
X5 25=		OR	X350=	
X100=		OR	X200=	
+180=		OR	+360=	
TOTAL ADDIT. FEE		OR	TOTAL ADDIT. FEE	

* If the entry in column 1 is less than the entry in column 2, write "0" in column 3.

** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 20, enter "20."

*** If the "Highest Number Previously Paid For" IN THIS SPACE is less than 3, enter "3."

The "Highest Number Previously Paid For" (Total or Independent) is the highest number found in the appropriate box in column 1.

Exhibit F

Under the Paperwork Reduction Act of 1995, no persons are required to respond to a collection of information unless it displays a valid OMB control number.

FEE TRANSMITTAL for FY 2004

Effective 10/01/2003. Patent fees are subject to annual revision.

☐ Applicant claims small entity status. See 37 CFR 1.27

TOTAL AMOUNT OF PAYMENT (\$ 1346.00

Complete if Known

Application Number 10/625,503
Filing Date July 22, 2003
First Named Inventor Randall J. Huebner
Examiner Name
Art Unit
Attorney Docket No. ACM 349

METHOD OF PAYMENT (check all that apply)

☒ Check ☐ Credit card ☐ Money Order ☐ Other ☐ None

☒ Deposit Account:

Deposit
Account
Number
Deposit
Account
Name

11-1540

Kolisch Hartwell, P.C.

The Director is authorized to: (check all that apply)

☐ Charge fee(s) indicated below ☒ Credit any overpayments

☒ Charge any additional fee(s) or any underpayment of fee(s)

☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.

FEE CALCULATION

1. BASIC FILING FEE

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1001 770	2001 385	Utility filing fee	770.00
1002 340	2002 170	Design filing fee	
1003 530	2003 265	Plant filing fee	
1004 770	2004 385	Reissue filing fee	
1005 160	2005 80	Provisional filing fee	
SUBTOTAL (1)			(\$ 770.00

2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE

Total Claims	Extra Claims	Fee from below	Fee Paid
40	-20** = 20	18.00	360.00
Independent Claims	04	-3** = 01	86.00
Multiple Dependent		290.00	0.00

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description
1202 18	2202 9	Claims in excess of 20
1201 86	2201 43	Independent claims in excess of 3
1203 290	2203 145	Multiple dependent claim, if not paid
1204 86	2204 43	** Reissue independent claims over original patent
1205 18	2205 9	** Reissue claims in excess of 20 and over original patent

SUBTOTAL (2) (\$ 446.00

**or number previously paid, if greater; For Reissues, see above

FEE CALCULATION (continued)

3. ADDITIONAL FEES

Large Entity Fee Code (\$)	Small Entity Fee Code (\$)	Fee Description	Fee Paid
1051 130	2051 65	Surcharge - late filing fee or oath	130.00
1052 50	2052 25	Surcharge - late provisional filing fee or cover sheet	
1053 130	1053 130	Non-English specification	
1812 2,520	1812 2,520	For filing a request for ex parte reexamination	
1804 920*	1804 920*	Requesting publication of SIR prior to Examiner action	
1805 1,840*	1805 1,840*	Requesting publication of SIR after Examiner action	
1251 110	2251 55	Extension for reply within first month	
1252 420	2252 210	Extension for reply within second month	
1253 950	2253 475	Extension for reply within third month	
1254 1,480	2254 740	Extension for reply within fourth month	
1255 2,010	2255 1,005	Extension for reply within fifth month	
1401 330	2401 165	Notice of Appeal	
1402 330	2402 165	Filing a brief in support of an appeal	
1403 290	2403 145	Request for oral hearing	
1451 1,510	1451 1,510	Petition to institute a public use proceeding	
1452 110	2452 55	Petition to revive - unavoidable	
1453 1,330	2453 665	Petition to revive - unintentional	
1501 1,330	2501 665	Utility issue fee (or reissue)	
1502 480	2502 240	Design issue fee	
1503 640	2503 320	Plant issue fee	
1460 130	1460 130	Petitions to the Commissioner	
1807 50	1807 50	Processing fee under 37 CFR 1.17(q)	
1806 180	1806 180	Submission of Information Disclosure Stmt	
8021 40	8021 40	Recording each patent assignment per property (times number of properties)	
1809 770	2809 385	Filing a submission after final rejection (37 CFR 1.129(a))	
1810 770	2810 385	For each additional invention to be examined (37 CFR 1.129(b))	
1801 770	2801 385	Request for Continued Examination (RCE)	
1802 900	1802 900	Request for expedited examination of a design application	

Other fee (specify)

*Reduced by Basic Filing Fee Paid

SUBTOTAL (3) (\$ 130.00

SUBMITTED BY

(Complete if applicable)

Name (Print/Type) James R. Abney, Esq. Registration No. 42,253 Telephone (503) 224-6655
Signature [Signature] Date January 5, 2004

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.

This collection of information is required by 37 CFR 1.17 and 1.27. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Exhibit G

KOLISCH HARTWELL, P.C.

U.S. Patent and Trademark Office
Client Costs Advanced:530 · Client Costs Adv.
Client Costs Advanced:530 · Client Costs Adv.

Patent application filing fee
Missing parts surcharge

1/2/2004

54218

1,216.00
130.00

Cash in Bank New Wells F ACM 349 - Acumed

RLK
1,346.00

Exhibit H

Under the Paperwork Reduction Act of 1995 no persons are required to respond to a collection of information unless it displays a valid OMB control number

Effective on 12/08/2004.

Fees pursuant to the Consolidated Appropriations Act, 2005 (H.R. 4818).

FEE TRANSMITTAL
For FY 2005☐ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) 250.00**Complete if Known**

Application Number	10/652,503
Filing Date	July 22, 2003
First Named Inventor	Randall Huebner
Examiner Name	Michael J. Araj
Art Unit	3738
Attorney Docket No.	ACM 349

METHOD OF PAYMENT (check all that apply)☒ Check ☐ Credit Card ☐ Money Order ☐ None ☐ Other (please identify): _____☒ Deposit Account Deposit Account Number: 11-1540 Deposit Account Name: Kolisch Hartwell, P.C.

For the above-identified deposit account, the Director is hereby authorized to: (check all that apply)

☐ Charge fee(s) indicated below☐ Charge fee(s) indicated below, except for the filing fee☒ Charge any additional fee(s) or underpayments of fee(s) under 37 CFR 1.16 and 1.17☒ Credit any overpayments**WARNING:** Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.**FEE CALCULATION****1. BASIC FILING, SEARCH, AND EXAMINATION FEES**

Application Type	FILING FEES		SEARCH FEES		EXAMINATION FEES		Fees Paid (\$)
	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	Fee (\$)	Small Entity Fee (\$)	
Utility	300	150	500	250	200	100	
Design	200	100	100	50	130	65	
Plant	200	100	300	150	160	80	
Reissue	300	150	500	250	600	300	
Provisional	200	100	0	0	0	0	

2. EXCESS CLAIM FEES**Fee Description**

Each claim over 20 (including Reissues)

Fee (\$)	Small Entity Fee (\$)
50	25

Each independent claim over 3 (including Reissues)

200	100
-----	-----

Multiple dependent claims

360	180
-----	-----

Total Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
--------------	--------------	----------	---------------

- 20 or HP = 5	x	50.00	= 250.00
----------------	---	-------	----------

HP = highest number of total claims paid for, if greater than 20.

Indep. Claims	Extra Claims	Fee (\$)	Fee Paid (\$)
---------------	--------------	----------	---------------

- 3 or HP =	x		=
-------------	---	--	---

HP = highest number of independent claims paid for, if greater than 3.

3. APPLICATION SIZE FEE

If the specification and drawings exceed 100 sheets of paper (excluding electronically filed sequence or computer listings under 37 CFR 1.52(e)), the application size fee due is \$250 (\$125 for small entity) for each additional 50 sheets or fraction thereof. See 35 U.S.C. 41(a)(1)(G) and 37 CFR 1.16(s).

Total Sheets	Extra Sheets	Number of each additional 50 or fraction thereof	Fee (\$)	Fee Paid (\$)
--------------	--------------	--	----------	---------------

- 100 =	/ 50 =	(round up to a whole number) x		=
---------	--------	--------------------------------	--	---

4. OTHER FEE(S)

Non-English Specification, \$130 fee (no small entity discount)

Other (e.g., late filing surcharge): _____

SUBMITTED BY

Signature

James R. Abney

Registration No. 42,253
(Attorney/Agent)

Telephone (503) 224-6655

Name (Print/Type)

James R. Abney

Date September 14, 2006

This collection of information is required by 37 CFR 1.136. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 30 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Exhibit I

KOLISCH HARTWELL, P.C.

67559

U.S. Patent and Trademark Office
Client Costs Advanced:530 · Client Costs Office action response for add'l claims

9/14/2006

250.00

Cash in Bank New W ACM 349 - Acumed

250.00



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

RANDALL J. HUEBNER, DAVID G. JENSEN,
and HERBERT RESPESS

Date: April 17, 2008

Serial No. : 10/625,503

Docket No. ACM 349

Filed : July 22, 2003

Group Art Unit 3733

For : BONE FUSION SYSTEM

Examiner Michael J. Araj

Commissioner for Patents
REFUND SECTION
P.O. Box 1450
Alexandria, Virginia 22313-1450

COPY

Sir:

REQUEST FOR REFUND

Applicants respectfully request a refund to Deposit Account No. 11-1540 in the amount of \$250. On January 29, 2008, Applicants filed a Response After Final Office Action in the above-referenced matter. Applicants included an electronic payment via Deposit Account 11-1540 in the amount of \$1,650 to cover the required excess claims fees. The excess claims fee was based on 33 excess claims (78 total claims) at the large entity rate of \$50 each. Nevertheless, despite receipt of these funds, on February 4, 2008 the Patent Office also charged Deposit Account 11-1540 the amount of \$250 for 5 excess claims fees at the large entity rate. Thus, Applicants have paid for 83 (large entity) claims although only 78 claims exist in the application.

According to the Patent Application Fee Determination Record on file in this matter, Legal Instrument Examiner Deborah Pollard calculated on January 29, 2008 that the

highest number of claims previously paid for on this application was 40. Applicants respectfully assert that they already paid for a total of 45 claims more than a year earlier. On January 5, 2004, Applicants filed a Response to Notice to File Missing Parts of Nonprovisional Application, and submitted therewith Check No. 54218 in the amount of \$1,346 as payment for the application filing fees and surcharge, which sum included payment for 20 extra claims at the [then] rate of \$18 each, for a total of 40 claims in the application. On September 14, 2006, Applicants filed a Response to Office Action, and submitted therewith Check No. 67559 in the amount of \$250 as payment for 5 new claims introduced in that amendment, bringing the total number of claims in the application, and paid for, to 45. Indeed, the Patent Office's own records show that the highest number of claims previously paid for is 45, as shown on another Patent Application Fee Determination Record dated September 18, 2006, entered after the filing of the Response to Office Action on September 14, 2006.

Applicants hereby submit copies of the following documents that show Deposit Account 11-1540 was charged \$250 in error:

- Exhibit A. Copy of the Electronic Patent Application Fee Transmittal noting inclusion of payment in the amount of \$1,650 for 33 excess claims.
- Exhibit B. Copy of the Electronic Acknowledgement Receipt noting successful receipt of the payment in the amount of \$1,650.
- Exhibit C. Copy of the Monthly Deposit Account Statement showing the \$250 PTO charge attributed to excess claims fees based upon the large entity rate of \$50 each, which sum amounts to overpayment of 5 excess claims at the large entity rate.
- Exhibit D. Copy of the Patent Application Fee Determination Record dated January 29, 2008, obtained through Private PAIR.
- Exhibit E. Copy of the Patent Application Fee Determination Record dated September 18, 2006, obtained through Private PAIR.

- Exhibit F. Copy of the Fee Transmittal dated January 5, 2004 (which accompanied Applicants' Response to Notice to File Missing Parts of Nonprovisional Application) itemizing the extra claims fees paid for at that time.
- Exhibit G. Copy of the stub from Check No. 54218 for \$1,346.
- Exhibit H. Copy of the Fee Transmittal dated September 14, 2006 (which accompanied Applicants' Response to Office Action) itemizing the 5 extra claims fees paid for at that time.
- Exhibit I. Copy of the stub from Check No. 67559 for \$250.

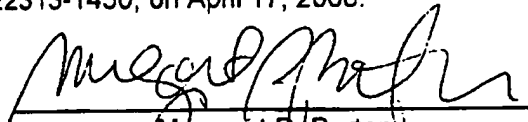
Accordingly, Applicant respectfully requests a refund in the amount of \$250 to Deposit Account No. 11-1540 for the February 4, 2008 charge to the deposit account. A duplicate of this document, excluding exhibits, is included for your convenience in processing the refund request.

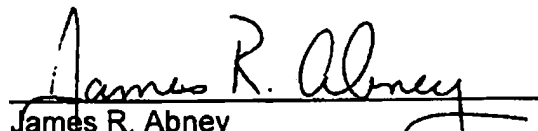
Respectfully submitted,

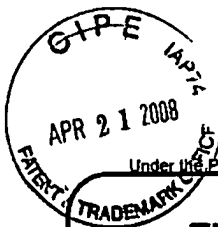
KOLISCH HARTWELL, P.C.

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the U.S. Postal Service as First Class Mail in an envelope addressed to: Commissioner for Patents, REFUND SECTION, PO Box 1450, Alexandria, Virginia 22313-1450, on April 17, 2008.


Margaret R. Burton


James R. Abney
Customer No. 23581
Registration No. 42,253
Attorney for Applicants
520 S.W. Yamhill Street, Suite 200
Portland, Oregon 97204
Telephone: (503) 224-6655
Facsimile: (503) 295-6679



PTO/SB/21 (01-08)
Approved for use through 02/29/2008. OMB 0651-0031
U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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TRANSMITTAL FORM

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

31

Application Number	10/625,503
Filing Date	July 22, 2003
First Named Inventor	RANDALL J. HUEBNER
Art Unit	3733
Examiner Name	Michael J. Araj
Attorney Docket Number	ACM 349

ENCLOSURES (Check all that apply)

<input type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Reply to Missing Parts/ Incomplete Application <input type="checkbox"/> Reply to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation <input type="checkbox"/> Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input checked="" type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s) _____ <input type="checkbox"/> Landscape Table on CD	<input type="checkbox"/> After Allowance Communication to TC <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to TC (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) (please identify below): - Return Receipt Postcard - 24 pages of supporting exhibits to Request for Refund (including exhibit divider sheets) - extra copy of Request for Refund, minus exhibits, for refund processing purposes
Remarks		

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name	Kolisch Hartwell, P.C.		
Signature			
Printed name	JAMES R. ABNEY		
Date	April 17, 2008	Reg. No.	42,253

CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below:

Signature			
Typed or printed name	Margaret R. Burton	Date	April 17, 2008

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.

Document code: WFEE

United States Patent and Trademark Office
Sales Receipt for Accounting Date: 02/04/2008

DPOLLARD SALE #00000001 Mailroom Dt: 01/29/2008 111540 10625503
01 FC : 1202 250.00 DA

Payment Date: 05/02/2008 SDIRETA1
04/2008 DPOLLARD 00000001 111540 10625503
FC:1202 250.00 CR